

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STEVEN M. JACOB,

)

4:10CV3073

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Petitioner,

)

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v.

)

**MEMORANDUM
AND ORDER**

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ROBERT HOUSTON,

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)

Respondent.

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This matter is before the court on Petitioner's second Motion to Alter or Amend. (Filing No. [21](#).) In his Motion, Petitioner summarizes his claims and compares them to the court's summary of his claims contained in the court's previous Orders. (*Id.*) Petitioner seeks to clarify his claims. (*Id.* at CM/ECF p. 9.) Therefore, the court liberally construes Petitioner's Motion as a Motion to Supplement.

The court has carefully reviewed Petitioner's Motion and concludes that his summaries are consistent with the claims he already asserted in his 143-page Petition. (See Filing Nos. [1](#), [10](#) and [19](#).) Therefore, Petitioner's Motion to Alter or Amend, construed as a Motion to Supplement, is granted. Respondent may refer to Petitioner's Supplement for additional assertions relating to Petitioner's claims, as previously summarized by the court.

Petitioner also asks the court to appoint counsel. (Filing No. [21](#) at CM/ECF p. 1.) "[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment of counsel] is committed to the discretion of the trial court." *McCall v. Benson*, [114 F.3d 754, 756 \(8th Cir. 1997\)](#) (citations omitted). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner's ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. See, e.g., *Morris v. Dormire*, [217 F.3d 556, 558-59 \(8th Cir. 2000\)](#), cert. denied, [531 U.S. 984 \(2000\)](#); *Hoggard v. Purkett*, [29](#)

[F.3d 469, 471 \(8th Cir. 1994\)](#) (citations omitted); *see also* Rule 8(c) of the [Rules Governing Section 2254 Cases in the United States District Courts](#) (requiring appointment of counsel if an evidentiary hearing is warranted). Upon review of the pleadings and Petitioner's request, there is no need for the appointment of counsel at this time.

IT IS THEREFORE ORDERED that:

1. Petitioner's Motion to Alter or Amend (filing no. [21](#)), construed as a Motion to Supplement, is granted.
2. Petitioner's request to appoint counsel is denied.

DATED this 9th day of November, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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